

Remarks

Claims 1-13, 15-27, 29-41, 43-55, and 59-62 are pending. Claims 1, 15, 29, 43, 59, and 62 are independent. In the December 27, 2006 Final Office Action, the Examiner rejected claims 1, 29, and 59 under 35 U.S.C. § 102 as being anticipated by Fisher et al. (U.S. Patent 5835896), and claims 1, 15, 29, 43, and 59 under 35 U.S.C. § 102 as being anticipated by Buist (U.S. Patent 6408282). The Examiner also rejected claim 62 under 35 U.S.C. § 103 as being unpatentable over Fisher in view of Priest (U.S. Patent 6892186). Applicants respectfully traverse.

Applicants submit with regard to claims 59 and 62 that the Examiner has omitted one or more elements needed to establish a prima facie rejection thereof. Applicants further submit that the Examiner has erred clearly in rejecting claims 1, 15, 29, 43, 59, and 62.

Claims 59 and 62 – Examiner Omits Element for Prima Facie Rejection

Claim 59 is directed toward a method that includes the steps of:

receiving a selection of a plurality of orders to trade at least one item via an interface comprising fields for selecting each of the plurality of orders, each of the orders having at least one trading variable associated therewith;  
increasing or decreasing the at least one trading variable of each of the selected plurality of orders by one of an absolute value and a relative value; and  
executing at least one of the selected trade orders at the increased or decreased trading variable.

Claim 62 is similarly directed toward a method that includes the steps of:

receiving a selection of a plurality of orders to trade at least one item via an interface comprising fields for selecting each of the plurality of orders, each of the orders having at least one trading variable associated therewith and assigned a suspended status;

increasing or decreasing the at least one trading variable of each of the selected plurality of orders by one of an absolute value and a relative value;  
assigning the selected plurality of orders an active status; and  
executing at least one of the selected trade orders at the increased or decreased trading variable.

The Examiner rejects claims 59 and 62 with reference only to the elements of claims 1 and 29, which do not include the element wherein the selection of the plurality of orders is received “via an interface comprising fields for selecting each of the plurality of orders.” In so doing, the Examiner has omitted this element and has therefore failed to establish a prima facie rejection that Fisher and Buist anticipate claim 59, and that Fisher combined with Priest obviate claim 62. Further, these references fail to disclose or otherwise suggest an interface for selecting a plurality of orders in this respect accordance with claims 59 and 62, and do not therefore anticipate or obviate claims 59 and 62, respectively.

Claims 1, 29, and 59 Are Not Anticipated by Fisher and Buist and Claim 62 is not Obvious over Fisher in view of Priest.

With regard to claims 59 and 62, a selection of a plurality of orders in a trading system is received and a trading variable associated with each of the plurality of orders is increased or decreased by a common value, i.e., an absolute value or a relative value. Neither Fisher or Buist disclose these features.

The Examiner asserts that Fisher discloses “receiving a selection of a plurality of bids or offers in a trading system” at col. 12, line 67-col.13, line 3. The Examiner is mistaken. At col. 12, line 67-col.13, line 3 Fisher discusses a proxy bidding

feature with which a bidder places a bid for the maximum amount they are willing to pay. A proxy bid is not a selection of a plurality of orders in a trading system. As such, a proxy bid is not a selection of a plurality of bids or offers in accordance with claims 1 and 29.

The Examiner further asserts that Fisher discloses “shifting a price of each of the plurality of bids or offers in the selection by one of an absolute value and a relative value” at col. 12, lines 35-47; col. 13, lines 4-8. The Examiner is mistaken on this point as well. As there has not been a selection of a plurality of orders for the increase or decrease, there cannot be a shift in the price of each of the selected orders. Furthermore, Fisher’s markdown or markup features at col. 12, lines 35-47 are used to change the price of merchandise, which are not orders in a trading system, individually. (Col. 12, lines 54-57). Fisher does not therefore disclose increasing or decreasing the trading variable of each of the plurality of orders by a common value in accordance with claim 59. As such Fisher does not disclose shifting the price of each of the plurality of bids or offers by a common value in accordance with claims 1 and 29.

With regard to Buist, the Examiner asserts that Buist teaches “receiving a selection of a plurality of bids or offers in a trading system” at col. 10, line 19-21; Fig. 3 RN 370. The Examiner is mistaken. At col. 10, lines 19-21 and with reference to RN 370, Buist discusses receiving a sell order and displaying the offer in an order book. Receiving a sell order is not the same as receiving a selection of a plurality of orders in a trading system in accordance with claims 59 and 62.

The Examiner further asserts that Buist discloses “shifting a price/size of each of the plurality of bids or offers in the selection by one of an absolute value and a relative value” at col. 28, lines 63-col. 29, line 11. The Examiner is mistaken on this point as well. At col. 28, lines 63-col. 29, line 11, Buist discusses setting a user default

for the incremental changes made in the negotiations screen of Fig. 42 which are applied during a negation of a stock trade by clicking the qty up and qty down buttons. There is no discussion that the incremental changes are applied to anything other than the quantity of a stock being negotiated. Therefore, this is not the same as increasing or decreasing the trading variable of each of the plurality of the selected orders by a common value in accordance with claims 59 and 62. As such, Bruist does not disclose shifting the price/size of each of the plurality of bids or offers by a common value in accordance with claims 1, 15, 29, and 43.

Claim 62 further recites wherein the selected orders are assigned a suspended status, the at least one trading variable is increased or decreased, and the selected plurality of orders are then assigned an active status. As explained in the specification at paragraphs 0032-0033, this prevents orders from being hit or taken, as the case may be, while the orders are being updated. None of the references disclose or suggest this feature either.

The Examiner asserts that Priest discloses “wherein the suspended status blocks hits or takes from being performed on the selected plurality of bids or offers at col. 11, lines 15-17”. The Examiner is mistaken on this point as well. At col. 11, lines 15-17, Priest discusses an interface screen with “a status indicator 1008 describing whether the current bid is in an active or inactive state.” There is no discussion by Priest that the inactive state blocks hits or takes from being performed. Indeed, Priest is altogether silent as to being able to hit or take an order in the auction system. Rather, it appears that the status indicator merely informs the viewer whether the bid is the then high bid or if the bid has been outbid. See Fig. 10.

Finally, in order to establish a prima facie case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the

knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine teachings, there must be a reasonable expectation of success, and the prior art references must teach or suggest all of the claim elements. (*In re Vaeck*, 947 F.2d 488, 493 (Fed. Cir. 1991)). Mere conclusory statements of the motivation to combine references are insufficient for the Examiner to establish a prima facie case of obviousness under the applicable substantial evidence standard. (*In re Lee*, 277 F.3d 1338, 1344 (Fed. Cir. 2002)).

The Examiner asserts that one would have been motivated to do so in order to allow participants to differentiate between active and inactive status, allowing them to participate only in active status, thus enhancing the effectiveness of the system. As in *In re Lee*, the Examiner merely recites a conclusory statement regarding the motivation to combine Fisher and Priest without any objective evidence supporting the statements. The Examiner has therefore failed to establish a prima facie case of obviousness with regard to at least claim 62 and demand that the Examiner provide a reference for the proffered motivation if the rejection is to be maintained.

The Examiner has further failed to cite a document for the motivation to combine references for many of the dependent claims. Applicants demand that the Examiner produce objective evidence of any unsupported assertions if the rejections are to be maintained. In the event the Examiner is relying on official notice, Applicants traverse any implied as well as any express taking of official notice and demand that the Examiner produce documentary evidence in any fact officially noticed.

Conclusion

The Examiner has failed to establish a prima facie case of anticipation with regard to independent claims 1, 15, 29, 43, and 59 and obviousness with regard to independent claim 62. The Examiner has therefore failed to establish a prima facie rejection for the dependent claims that depend from these independent claims. Accordingly, reconsideration and withdrawal of the rejections are respectfully requested.

To expedite prosecution, the Examiner is invited to contact the Applicants' undersigned representative at 212-829-5407.

Respectfully submitted,

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